

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
SPARTANBURG DIVISION**

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|---------------------------------|---|------------------------------|
| Michael Orland Sharpe, |) | Civil Action No.: 22av99999 |
| |) | |
| Plaintiff, |) | |
| |) | |
| vs. |) | NOTICE OF REMOVAL TO THE |
| |) | UNITED STATES DISTRICT COURT |
| Hemphill & Son, Inc. and Harvey |) | |
| Edward Ledsome, |) | |
| |) | |
| Defendants. |) | |
| |) | |
| |) | |

PLEASE TAKE NOTICE that Defendant Hemphill & Son, Inc. by and through its undersigned counsel, hereby respectfully removes this action to the United States District Court for the District of South Carolina, Spartanburg Division, pursuant to 28 U.S.C. §§ 1332, 1441, and 1446, based on the following grounds:

I. BACKGROUND

1. On December 20, 2021, Plaintiff filed a Complaint captioned Michael Orland Sharpe v. Hemphill & Son, Inc. and Harvey Edward Ledsome, Case No. 2021-CP-42-04256 in the Court of Common Pleas, Spartanburg County, South Carolina (the “State Court Action”). A copy of the Summons and Complaint is attached as Exhibit A.

2. Defendant Hemphill & Son, Inc. was served with the Summons and Complaint on or about December 29, 2021. Therefore, this Notice of Removal is timely pursuant to 28 U.S.C. § 1446(b). Upon information and belief, Defendant Harvey Edward Ledsome has not been served to date. The undersigned counsel will be representing Mr. Ledsome and will enter an Answer on his behalf upon service of the Summons and Complaint.

3. No other process or pleadings have been served upon the Defendants in the State Court Action.

II. GROUNDS FOR REMOVAL

4. The subject action is being removed to Federal Court pursuant to 28 U.S.C. §§ 1332, 1441 and 1446 in that all real parties-in-interest are diverse and that the amount in controversy exceeds the jurisdictional threshold.

5. Although the Complaint does not demand a sum certain, Plaintiff seeks recovery for actual damages in an amount to compensate Plaintiff for injury and impairment, which required medical treatment, and property damage. The Complaint alleges that Plaintiff is entitled to actual and punitive damages and any other relief the Court deems just and proper. In light of these allegations, the amount in controversy exceeds the \$75,000.00 jurisdictional threshold under 28 U.S.C. § 1332(a).

6. Defendant Hemphill & Son is a corporation organized and existing under the laws of the State of Georgia. No members of the partnership are citizens or residents of South Carolina.

7. Defendant Harvey Edward Ledsome is a resident of Georgia as alleged by Plaintiff's Complaint.

8. Plaintiff is a resident of South Carolina as alleged by Plaintiff's Complaint.

9. Venue is proper in the United States District Court for the District of South Carolina, Spartanburg Division, pursuant to 28 U.S.C. § 1441(a) as it is the federal judicial district and division corresponding to the state court action where the subject events are alleged to have occurred.

10. Defendant Hemphill & Son, Inc. files herewith copies of all processed pleadings and orders in the state court action pursuant to 28 U.S.C. § 1446(a).

11. Pursuant to 28 U.S.C. § 1446(b)(2)(A), Defendant Hemphill & Son, Inc. has been properly joined and served. Defendant Harvey Edward Ledsome has not, upon information and belief, been served to date.

12. That Defendant Hemphill & Son, Inc. will file a copy of this Notice of Removal with the Clerk of Court for Spartanburg County, South Carolina, and serve counsel for Plaintiff pursuant to 28 U.S.C. § 1446(d).

13. That Defendant Hemphill & Son, Inc. has not yet answered or otherwise responded to Plaintiff's Complaint. Defendant Hemphill & Son, Inc. will therefore file and serve its answer or motion responsive to the Complaints within seven days pursuant to Federal Rule of Civil Procedure 81(c).

14 Defendant Hemphill & Son, Inc. has simultaneously filed with this Notice of Removal its Answer to the Interrogatories required by Local Civil Rule 26.01.

WHEREFORE, Defendant Hemphill & Son, Inc. hereby removes the State Court Action to this Court.

Respectfully Submitted this 26th of January, 2022, in Mount Pleasant, South Carolina.

[Signature Page to Follow]

HALL BOOTH SMITH, PC

/s/Elizabeth F. Morrison

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